



March 19, 2018

Dear Senator:

On behalf of the Human Rights Campaign's 3 million members and supporters nationwide, we write to express our concern of S. 1683, the Stop Enabling Sex Trafficking Act (SESTA), and H.R. 1865, the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA). As the nation's largest civil rights organization working to promote equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) people, we are deeply concerned about the negative impact both bills could have on the most marginalized members of the LGBTQ community, including members of the transgender community and people of color.

Sex trafficking is a serious global challenge that requires significant enforcement at the local, state, federal and global levels. The Human Rights Campaign has long supported efforts to combat sex trafficking, including the Violence Against Women Reauthorization Act of 2103 which enhanced the federal government's authority to address this problem.

SESTA and FOSTA would amend Section 230 of the Communications and Decency Act (CDA), which already encourages websites to report cases of possible trafficking to law enforcement.¹ Under current law, website administrators provide important data and information to support criminal investigations. However, SESTA and FOSTA would reform the CDA creating a threat of civil litigation that could deter website administrators from trying to identify and report actual trafficking content. This would further push the sex trade underground, resulting in sex trafficking victims facing a higher risk of violence and exploitation.

LGBTQ people of color, particularly Black and Latinx people, and transgender individuals already encounter disproportionate rates of physical and sexual violence.² Both communities are also more vulnerable to HIV due to a lack of resources and societal barriers like stigma and discrimination. According to the U.S. Transgender Survey of 2015, 6.7% of Black transgender

¹ 47 U.S.C. § 230 (1996).

² S.E. James, C. Brown, & I. Wilson, *2015 U.S. Transgender Survey: Report on the Experiences of Black Respondents*, National Center for Transgender Equality, Black Trans Advocacy, & National Black Justice Coalition (2017) (finding 53% of Black respondents have been sexually assaulted at some point in their lifetimes, compared to 47% in the USTS sample overall)

respondents were living with HIV, nearly five times the rate of the overall survey sample (1.4%) and more than twenty times the rate in the U.S. population (0.3%).³

Many websites that are likely to be targeted following enactment of SESTA or FOSTA serve as a critical tool for distributing comprehensive health and safety information, such as HIV prevention and treatment information as well as access to community support services. LGBTQ people of color and members of the transgender community have relied on these websites for supportive services. As written, both bills could have a chilling effect on harm reduction organizations' ability to serve these communities due to web administrators' fear of prosecution for "promoting" or "facilitation" prostitution by posting such information. Furthermore, limiting access to critical resources and care would worsen health and safety outcomes of the most vulnerable members of the LGBTQ community.

While we commend the sponsors of this legislation for their dedication to combat harmful and illegal sex trafficking, both bills in their current form are likely to compromise both anti-trafficking efforts and harm reduction goals. Congress should take more time to examine how to better address the problem without risking the health and safety of LGBTQ people and many other vulnerable populations, including victims of sex trafficking.

Sincerely,

A handwritten signature in black ink that reads "David Stacy". The signature is written in a cursive, flowing style.

David Stacy
Government Affairs Director

³ *Id.*